

## **Chapter 4**

## **Reasonable Accommodation**

The Washington State Department of Transportation (WSDOT) is committed to provide reasonable accommodation for persons with disabilities as each situation may require. Reasonable accommodation is an arrangement or modification that allows a person with disabilities to perform the essential job tasks for which they are otherwise qualified. The department will also ensure that access to programs, services, and communications of the department are provided to persons with disabilities in a timely manner.

To this end, all individuals within the department who have the responsibility of selecting, training, and supervising employees shall ensure they recruit, hire, train, promote, and transfer any individual who can perform the essential job duties with reasonable accommodation without regard to sensory, mental, or physical disability.

The Office of Equal Opportunity (OEO) will provide training and guidance to department managers in WSDOT policies and procedures relating to the Americans with Disabilities Act (ADA) of 1990. Additionally, OEO will act as the coordinating office for all requests for reasonable accommodation.

### **Reasonable Accommodation Procedures — Pre-Employment**

Prior to an employment interview being conducted, the supervisor will review the Classification Questionnaire (CQ), or, for WSF union jobs, the job specification, and the Essential Job Functions form for the position to ensure they are accurate.

During the interview process, the interviewing supervisor will review the CQ, or, for WSF union jobs, the job specification, and the Essential Job Functions form with the applicant to ensure the requirements for the position are thoroughly understood. Once this understanding is developed, the interviewing supervisor will have the applicant sign the Essential Job Functions form.

During the interview, interviewers may ask the applicant, “Can you, with or without reasonable accommodation, perform the essential job functions?” If the applicant’s reply is no, the interview may be terminated. If the applicant’s reply is yes, the interview should proceed to select the best-qualified applicant. Consideration of a specific reasonable accommodation will occur only after an employment offer has been made.

Employment decisions may not be based upon the need for accommodation unless the accommodation places an “undue hardship” on the employer, does not allow accomplishment of essential job functions, or creates a safety hazard.

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**Supervisor**

1. DOT Form 750-015, Essential Job Functions, is completed as an attachment to the CQ, or, for WSF union jobs, the job specification, at the time the position is established, its duties are substantially revised, or prior to obtaining a referral to fill that position.
2. Prior to the employment interview, the supervisor will review Form 753-015, Essential Job Functions, and Form SF-570, CQ, or, for WSF union jobs, the job specification, for accuracy and update if necessary.
3. Form 753-015, Essential Job Functions, and the CQ, or, for WSF union jobs, the job specification, are to be read and discussed with each referred candidate during the employment interview.
4. Each interviewed candidate must sign a copy of Form 753-015, Essential Job Functions, which relates to the position for which they are interviewing.
5. The interviewer completes interviews and recommends selection to the appropriate appointing authority. Records shall be retained for compliance with WSDOT's Affirmative Action in Recruitment and Appointments procedures.

**Appointing Authority**

1. Make offer of employment to the best-qualified candidate regardless of the need for reasonable accommodation.

**Reasonable Accommodation Procedures — Post-Employment Offer**

Any employee or applicant who refuses to sign DOT Form 750-015, Essential Job Functions, or who refuses a post-offer medical evaluation shall have the offer of employment or promotion rescinded by the appointing authority. Medical evaluations following an offer of employment may be required if there is a need for medical assessment:

- To assist in developing a reasonable accommodation.
- To comply with the requirements of established medical surveillance programs. All health and medical information will be kept separate from Personnel records in a Health and Safety File.

Costs of agency-directed medical evaluations shall be covered by the agency. In order to determine the alternative forms of accommodation, OEO will obtain appropriate technical assistance. Reasonable accommodation requiring expenditures, schedule adjustments, work place modifications, or other alternatives, which do not exceed the authority of the appointing authority, or place an "undue hardship" on the employer, may be agreed upon with the candidate, documented, and the

documentation forwarded to OEO. If the appointing authority, within the latitude of his/her discretion, determines that a disability cannot be reasonably accommodated, s/he will document that determination and forward the information to OEO for review prior to a final determination. OEO will coordinate with Capital Facilities, or at WSF, with the Engineering Department, for accommodations, which may require facilities modifications.

If a mutually acceptable agreement cannot be reached, the employee may request a review and determination by the Equal Opportunity Committee (EOC).

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**Job Applicant**

1. It is the responsibility of the selected applicant to identify the need for accommodation to accomplish essential functions of the position.

**Safety Office**

1. Notify appointing authority of either:
  - a. Concurrence with the hiring.
  - b. The need for a medical evaluation prior to the beginning of employment.
2. Schedule medical evaluations as necessary.
3. A medical evaluation indicating restrictions requiring accommodation will be referred back to the appointing authority.

**Appointing Authority**

1. Seek advice and assistance from OEO.
2. The offer of employment may not be rescinded because of the candidate's inability to perform the essential job functions of the position without a review of the pertinent documentation by OEO.
3. Reasonable accommodation requiring expenditures, schedule adjustments, workplace modifications, or other alternatives, which do not exceed the authority of the appointing authority, or place an "undue hardship" on the employer, may be agreed upon with the candidate, documented, and filed with OEO.
4. If the appointing authority determines that a disability cannot be reasonably accommodated, the appointing authority will document that determination and forward that information to OEO for review prior to a final determination.

## **OEO**

1. Coordinate with Capital Facilities, or at WSF, with the Engineering Department, for those accommodations, which may require facility modifications.
2. Coordinate with appropriate technical services to determine, as completely as possible, the circumstances surrounding the request for accommodation and all possible solutions.
3. Following review by all appropriate offices, provide a consolidated recommendation to the appointing authority.

## **Employee**

1. Accept the reasonable accommodation; or
2. Appeal the reasonable accommodation offer to the EOC.
3. Individuals also have the right to file complaints with the Washington State Human Rights Commission (RCW 49.60) or with the federal Equal Employment Opportunity Commission (Title VII, Civil Rights Act of 1964).

## **Reasonable Accommodation Procedures — Employees**

It is the employee's responsibility to notify the supervisor of any medical condition, which affects his/her ability to perform assigned tasks. This includes employee's use of prescription or nonprescription drugs as referenced by the department's interim Drug and Alcohol Directive D 73-40, and, for WSF employees, the WSF Drug and Alcohol Policy and Education Program.

If an employee is away from work due to serious illness or injury (i.e., heart surgery, back surgery, contagious disease, etc.), they will provide objective findings from the treating physician releasing them to perform the essential functions of the position prior to returning to work. The employee will be provided assistance in this process by the appropriate safety office. Communications with the treating physician will be kept in the confidential health and safety file. Once notification of the need for reasonable accommodation is received, the supervisor will notify OEO of the situation. In order to determine the alternative forms of accommodation, OEO will obtain appropriate technical assistance. Reasonable accommodation requiring expenditures, schedule adjustments, workplace modifications or other alternatives, which do not exceed the authority of the appointing authority, or place an "undue hardship" on the employer, may be agreed upon with the employee, documented, and the documentation forwarded to OEO (see Appendix 3).

If the reasonable accommodation requires the waiving of seniority and/or job assignment rules in a collective bargaining agreement, the appointing authority will request the union to agree, in writing, to a waiver of such

rules. If the union does not agree to such waiver, its refusal shall be documented in writing, and the employee shall be notified that his/her request for accommodation is not in compliance with the collective bargaining agreement. The employee shall also be notified of the union's refusal to waive bargaining agreement rules.

If the appointing authority, within the latitude of his/her discretion, determines that a disability cannot be reasonably accommodated, s/he will document that determination and forward the information to OEO for review prior to a final determination. OEO will coordinate with Capital Facilities, or, at WSF, with the Engineering Department, for those accommodations, which may require facilities modifications. If a mutually acceptable agreement cannot be reached, the employee may request a review and determination by the EOC.

## **Fitness for Duty Evaluation Procedures (Permanent Employees)**

### **Supervisor**

1. The immediate supervisor will document (1) observable difficulties in the employee's ability to perform the essential job functions or (2) unusual on-the-job behavior.
2. The immediate supervisor will counsel the employee concerning job performance and will consider any reasonable request for assistance made by the employee.
3. If it is necessary to determine the employee's ability to perform essential job functions, the supervisor should arrange for a "fitness for duty" medical examination through the appropriate safety officer.

### **Safety Officer**

1. The appropriate safety officer will arrange for an examination by a licensed physician and will provide the physician with DOT Form 750-015, Essential Job Functions, and letter documenting observed performance limitations. Physicians shall focus on:
  - a. Whether the individual is currently able to perform the essential functions of the assigned position, with or without reasonable accommodation.
  - b. Whether this person can perform the essential functions of the position without posing a direct threat to the health or safety of him/herself or to others.
2. Reports from the physician returned to the Safety Office will be included in employee's "Health and Safety" file. The safety officer will advise the appointing authority and/or supervisor of the physician's recommendations as necessary.

3. Reports indicating no medical basis for performance problems will be referred back to the supervisor for alternate supervisory measures to address the issues. Reports indicating a medical basis for performance problems will be evaluated by the appropriate safety officer and will be referred to the appointing authority regarding the need for and type of permanent or temporary accommodation measures. Should the appointing authority determine that accommodation is not available, that decision will be referred to OEO for a review and final recommendation.

Temporary disability will be treated according to “Return-to-Work” procedures (refer to D 75-04).

All costs for agency-directed fitness for duty examinations will be borne by the Olympia Service Center Safety Office, except for WSF, where the costs will be borne by the WSF Safety Office.

## Appendix 1- Essential Job Functions (DOT Form 750-015)



### Essential Job Functions

#### Instructions

Essential functions are those key tasks or requirements that the employee must be able to perform with or without reasonable accommodation. In determining whether a particular task is an essential or merely a helpful function, supervisors should consider the frequency at which the task is accomplished and the consequences if the employee is not required to perform the task.

In developing essential functions, supervisors should address the administrative requirements of the job (e.g., hours of work, work location, overnight travel), productivity standards (e.g., respond to written inquiries within one week), the tasks and responsibilities (e.g., file documents in storage cabinets), tools and equipment (e.g., operate personal computer, manual transmission dump trucks), the physical and mental responsibilities (e.g., flag traffic from a standing position, deal with customers in a cordial manner), and the health and safety requirements (e.g., exposure to exhaust fumes, hear and see approaching traffic).

Supervisors may modify or expand the list of essential functions when the position is vacant or when periodically updating the Job Description as part of the employee's annual performance evaluation.

Position Number	Job Class Code	Job Class Title
Essential Job Functions		
Supervisor's Signature		Date

DOT Form 750-015 EF  
Revised 3/98

## Appendix 2- Sample Accommodation Letter (Page 1 of 2)



**Washington State  
Department of Transportation**

Month Date, Year

Name

Street Address

City, State Zip

Dear (Name):

You have advised me that due to a medical condition, documented by your physician (Name of Physician), you are unable to perform your Essential Job Functions as a (Job Classification). This concern has been further documented by (Vocational Consultant) of the (Consulting Firm).

You have requested, and the Washington State Department of Transportation has agreed, as a reasonable accommodation for your disability, to comply with the recommendations made by the (Consulting Firm or Person making Recommendations). These reasonable accommodations will involve:

(List reasonable accommodations.)

You have indicated, and your physician concurs, that these reasonable accommodations will enable you to properly perform your work as a valued member of this organization and the Washington State Department of Transportation.

If further accommodations are deemed necessary in the future, please feel free to contact your supervisor or the Washington State Department of Transportation Office of Equal Opportunity for assistance.



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Name  
Date  
Page 2

This agreement shall be subject to review every \_\_\_\_\_ days.

Sincerely,

(Signature of Appointing Authority)

Agreed to and acknowledged:

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature)

Actual letter is 8.5" X 11"